


century Mongolian commander Genghis Kahn's elite shock troops, focuses on critical individual and collective tasks and requires company-grade officers to perform the tasks of radio-teletype operators, machine gunners, mortar men and antitank gunners. Officers learn flexibility as they react to unexpected situations or faulty intelligence, building teams, morale and esprit by accomplishing difficult tasks together. All captains attend at least one of two annual sessions.

Complementing stress conditioning during daily training is the stress of the battalions' intensified readiness as the Ranger Readiness Force. The three Ranger battalions alternate duty as RF1 so that one battalion is always poised for emergencies.

When a battalion is on a ready-force assignment, its troops and equipment can be assembled, loaded and ready for deployment within 18 hours. Any no-notice alert, which might appear to be a readiness-training exercise, could actually be a call to combat. The experience, training, equipment, exercises and warrior spirit in the Ranger Regiment maintain a tactically superior, strategically significant force. 

#### NOTES

1. The White House, *A National Security Strategy for a New Century* (Washington, DC: US Government Printing Office (GPO), May 1997), 1.
2. US Army Special Operations Command (USASOC), "Strategic Planning Guidance: SOF in the 21st Century" (January 1999), 8-3.
3. Sean J.A. Edwards, *Mars Unmasked: The Changing Face of Urban Operations* (Santa Monica, CA: RAND Corporation, 2000), 95.
4. USASOC, 9.
5. The 75th Ranger Regiment is chartered to have available a battalion-size force with associated equipment at 100 percent strength at any given time. The Regiment is required to provide a Ranger company capable of deploying to anywhere in the world in 9 hours or less.

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## Digest

### 21st Century Copyright Law

Alice King

Copyright law can be traced back to the first English copyright law, the 1710 *Statute of Anne*, by which royalty attempted to control anti-Crown book publishers. Modern US copyright law is based on the *US Constitution*, codified in Title 17 of the US Code and interpreted by various courts.

US copyright laws recognize a balance between the rights of a copyright holder and society's need to use copyrighted works to further education and learning. That is, copyright law gives proprietary rights to copyright owners while granting learning rights to users through fair-use mandates.

Copyright applies to the expression of an author's idea—not the idea itself. It also does not cover facts. Titles, names, short phrases, blank forms, basic calendar formats, measuring devices and other common things are not subject to copyright.

#### 1976 Copyright Act

The 1976 *Copyright Act* brought nearly all copyrights under federal law, the exception being the right of state governments to copyright their own publications. Once a work becomes 75 years old, it falls into the public domain and can be used freely by anyone for anything.

Copyright is automatically provided to authors of original works created since 1976. Anything that is fixed in a tangible medium can be copyrighted. A tangible medium is one that can be perceived by someone else. The medium itself is not important. An original work can be in almost any format, from printed items such as books and periodicals to databases and digital video disks and as diverse as a fabric design or the latest toy.

Before 1976, if a work had not been published, it was protected by state common law. In effect, it was protected forever. This included un-

published manuscripts, letters, journals, diaries and other works usually found in university libraries, state historical societies and archives.

#### 1998 Copyright Term Extension Act

In October 1998, the *Sonny Bono Copyright Term Extension Act* (SBCTEA) became law. All copyrights were extended for 20 years. Works already 75 years old were allowed to fall into the public domain. Works published after 31 December 1922 will go into the public domain after 95 years.

The extension retains a limited exemption for libraries, archives and nonprofit educational institutions. These entities can use works that are in their last 20 years of copyright status as if they were in the public domain. The exemption provides an exception as long as a work is not subject to normal exploitation, cannot be obtained at a reasonable price, or

the owner has not requested an extension with the Copyright Office.

Under SBCTEA, the new basic term is the author's life plus 20 years. For works by joint authors, the term is based on the longest surviving author's life plus 20 years. Works that have never been published will fall into the public domain in 2002.

### Basic Rights

The 1976 copyright law granted six basic rights to the copyright owner:

- To make copies.
- To create a derivative work.
- To distribute copies.
- To perform.
- To display work in public.
- To perform the work publicly by digital transmission.

The ease with which a user can download and manipulate material from the Internet is good news for the user but bad news for the copyright holder. This is one reason many commercial publishers are reluctant to grant permission to have their works on the Internet.

The electronic format, with its potential for allowing widespread duplication, is causing strong debate. In the electronic format, the right to reproduce a work becomes confused by what constitutes a copy. However, the general consensus is that temporary copies of a work that are automatically created when a user browses the Internet are not considered to be a violation of copyrights. There is a fine line between what constitutes distribution and what does not. This also applies to the performance or display of a work; what constitutes true use?

Under the new provisions, anything found on a web page can be copyrighted. Even E-mail can be considered to be copyrighted if it is a work created by an author and fixed in a tangible medium others can perceive.

Since the United States signed the 1989 *Berne Convention Treaty* on intellectual property, the copyright notation (a C inside a circle) is no longer required. However, it is still in the author's best interest to

include the notation, as well as a name and date, and register the work with the Copyright Office. Because works are automatically copyrighted on creation and fixation, it is safer to assume that a work is copyrighted than to assume it is in the public domain.

### Public Domain

Public domain works are those that are not protected by copyright. They might include works created by the federal government, works whose copyright term has expired or works created between 1976 and 1989 from which the copyright notation was omitted. Although the works of the government and its full-time employees cannot be copyrighted, all government work does not automatically fall into the public domain. If the work was created under contract or by a grant holder, a copyright might exist.

A public-domain work can be included in an original work by an author. However, the author should note the inclusion in the new work since public-domain material remains in that status. Likewise, a government publication that is in the public domain can contain copyrighted material. Having copyrighted materials in a public-domain document does not take away the material's copyright status.

The 1976 *Copyright Act*, which provides for fair use of copyrighted materials, balanced a copyright owner's six basic rights with the users' right to create new works.

### Fair Use

Fair use, a fairly new concept that did not exist before the 1976 law, has the following features:

- It provides a legal means to use another's work.
- It advances public interests such as education, scholarship, criticism, comment, news reporting and research.
- It has been interpreted as limited use not likely to deprive a copyright owner of any income.

Four elements to fair use must be weighed every time it is considered:

- What is the purpose and character of the proposed use? Educational use is more favorable than commercial use.

- What is the copyrighted work's nature? The use of factual material is more favorable than the use of fictional material.

- What is the size, amount or substantiality of the material? The amount of material used should be small and not include the heart of the work.

- How will the use of the material affect the original work's value or market potential? The new work should not be used as a substitute for the original work or for a subscription to the original; that is, the use of the material should not cause the copyright owner to lose money.

The greater the market effect on the original work, the less likelihood the use is fair. The narrow line between fair use and infringing use is determined in court, and all four factors are judged equally.

Anyone using copyrighted materials should:

- Cite sources clearly and accurately.

- Get permission before using material repeatedly if there is any question on the fair use of an item.

- Keep any use of copyrighted material as short as possible, using no more than necessary to illustrate a point.

- Always credit the source when using photographs.

Three excellent references on the Internet can guide users in fair-use applications: the University of Texas, <[www.utsystem.edu/ogc/intellectualproperty/cprtindx.htm](http://www.utsystem.edu/ogc/intellectualproperty/cprtindx.htm)>; the University Systems of Georgia, <[www.peachnet.edu/admin/legal/copyright/copy.html](http://www.peachnet.edu/admin/legal/copyright/copy.html)>; and Stanford University, <<http://fairuse.stanford.edu>>. ☛

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